

**Executive Summary – Enforcement Matter – Case No. 50665  
Our Lady of Atonement Catholic Church  
RN102747482  
Docket No. 2015-0898-EAQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

EAQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Our Lady of Atonement Catholic Church, 15415 Red Robin Road, San Antonio, Bexar County

**Type of Operation:**

Commercial construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: No

**Texas Register Publication Date:** November 27, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,813

**Amount Deferred for Expedited Settlement:** \$1,562

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,251

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - Unclassified

**Major or Minor Source:** Minor

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 8, 2015 through April 13, 2015

**Date(s) of NOE(s):** May 29, 2015

**Executive Summary – Enforcement Matter – Case No. 50665**  
**Our Lady of Atonement Catholic Church**  
**RN102747482**  
**Docket No. 2015-0898-EAQ-E**

***Violation Information***

1. Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan (“WPAP”) prior to commencing the construction of any regulated activity over the Edwards Aquifer Recharge Zone. Specifically, clearing, milling, and grading for the construction of a building, sidewalks, driveways and associated utilities, had disturbed approximately 2.988 acres without approval [30 TEX. ADMIN. CODE § 213.4(a)(1) and (j)(3), and Edward Aquifer Pollution Plan (“EAPP”) No. 13-95061902, Standard Conditions No. 4].
2. Failed to immediately suspend all regulated activities near any sensitive feature discovered during construction until receiving Executive Director approval. Specifically, construction activity continued near two sensitive geologic features discovered in the wall cuts located to the west (feature CD-1) and north (feature CD-2) without approval [30 TEX. ADMIN. CODE §§ 213.5(f)(2) and 213.4(k), and EAPP No. 13-95061902, Standard Conditions No. 10].
3. Failed to immediately notify the TCEQ San Antonio Regional Office of any sensitive feature discovered during construction. Specifically, the Respondent did not immediately submit notification for the two sensitive geologic features discovered during construction [30 TEX. ADMIN. CODE §§ 213.5(f)(2)(A) and 213.4(k), and EAPP No. 13-95061902, Standard Conditions No. 10].
4. Failed to implement temporary sediment control measures to prevent pollutants from entering a sensitive feature discovered during construction. Specifically, the two sensitive geologic features discovered at the Site were not protected with temporary sediment control measures [30 TEX. ADMIN. CODE § 213.4(k) and EAPP No. 13-95061902, Temporary Stormwater Section No. 22].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On May 4, 2015, obtained approval for modification of a WPAP under EAPP No. 13-15021203;
- b. On May 6, 2015, notified the TCEQ San Antonio Regional Office of a sensitive feature and submitted a geologic assessment report prepared by a geologist which outlined measures to protect the sensitive feature; and
- c. On May 12, 2015, obtained approval of a Solution Feature/Sensitive Feature Closure Plan.

**Executive Summary – Enforcement Matter – Case No. 50665**  
**Our Lady of Atonement Catholic Church**  
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**Docket No. 2015-0898-EAQ-E**

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Update the Facility's operational guidance and conduct employee training to ensure that the TCEQ San Antonio Regional Office is notified immediately of sensitive features discovered during construction and to ensure all regulated activities are suspended when a sensitive feature is discovered during construction; and

ii. Install temporary sediment control measures to prevent pollutants from entering sensitive geologic features discovered during construction, until the two sensitive features are permanently sealed.

b. Within 45 days, submit written certification to demonstrate compliance with a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Reverend Christopher G. Phillips, Pastor, Our Lady of Atonement Catholic Church, 15415 Red Robin Road, San Antonio, Texas 78255

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	1-Jun-2015	<b>Screening</b>	11-Jun-2015	<b>EPA Due</b>	
	<b>PCW</b>	15-Jun-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Our Lady of Atonement Catholic Church		
<b>Reg. Ent. Ref. No.</b>	RN102747482		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	50665	<b>No. of Violations</b>	4
<b>Docket No.</b>	2015-0898-EAQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts  \*Capped at the Total EB \$ Amount  
 Estimated Cost of Compliance

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 11-Jun-2015

Docket No. 2015-0898-EAQ-E

PCW

Respondent Our Lady of Atonement Catholic Church

Policy Revision 4 (April 2014)

Case ID No. 50665

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102747482

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 11-Jun-2015

Docket No. 2015-0898-EAQ-E

PCW

Respondent Our Lady of Atonement Catholic Church

Policy Revision 4 (April 2014)

Case ID No. 50665

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102747482

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) and (j)(3), and Edwards Aquifer Pollution Plan ("EAPP") No. 13-95061902, Standard Conditions No. 4

Violation Description Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to commencing the construction of any regulated activity over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on April 8, 2015 through April 13, 2015. Specifically, clearing, milling, and grading for the construction of a building, sidewalks, driveways and associated utilities, had disturbed approximately 2.988 acres without approval.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
100% of the rule requirements were not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 21

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One monthly event is recommended from the last date of the investigation, April 13, 2015, to the May 4, 2015 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance on May 4, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$938

This violation Final Assessed Penalty (adjusted for limits) \$938

# Economic Benefit Worksheet

**Respondent** Our Lady of Atonement Catholic Church  
**Case ID No.** 50665  
**Reg. Ent. Reference No.** RN102747482  
**Media** Edwards Aquifer  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$4,000	13-Apr-2015	4-May-2015	0.06	\$12	n/a	\$12
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a WPAP modification application and to obtain approval. Date required is the last date of the investigation. Final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

**TOTAL**

\$12

Screening Date 11-Jun-2015

Docket No. 2015-0898-EAQ-E

PCW

Respondent Our Lady of Atonement Catholic Church

Policy Revision 4 (April 2014)

Case ID No. 50665

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102747482

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 213.5(f)(2) and 213.4(k), and EAPP No. 13-95061902, Standard Conditions No. 10

Violation Description

Failed to immediately suspend all regulated activities near any sensitive feature discovered during construction until receiving Executive Director approval, as documented during investigations conducted on April 8, 2015 through April 13, 2015. Specifically, construction activity continued near two sensitive geologic features discovered in the wall cuts located to the west (feature CD-1) and north (feature CD-4) of the Site without approval.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

29 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

Two quarterly events are recommended (one event for each feature) from the last date of the investigation, April 13, 2015, to the May 12, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$625

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent returned to compliance on May 12, 2015.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

## Economic Benefit Worksheet

**Respondent** Our Lady of Atonement Catholic Church  
**Case ID No.** 50665  
**Reg. Ent. Reference No.** RN102747482  
**Media** Edwards Aquifer  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,500	13-Apr-2015	12-May-2015	0.08	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost to submit a geologic assessment report prepared by a geologist to the TCEQ which outlines measures to protect the sensitive feature and obtain approval from the TCEQ. Date required is the last date of the investigation. Final date is the date the Solution Feature/Sensitive Feature Closure Plan was approved.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$3,500

**TOTAL** \$14

Screening Date 11-Jun-2015

Docket No. 2015-0898-EAQ-E

PCW

Respondent Our Lady of Atonement Catholic Church

Policy Revision 4 (April 2014)

Case ID No. 50665

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102747482

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 213.5(f)(2)(A) and 213.4(k), and EAPP No. 13-95061902, Standard Conditions No. 10

Violation Description Failed to immediately notify the TCEQ San Antonio Regional Office of any sensitive feature discovered during construction, as documented during an investigation conducted on April 8, 2015 through April 13, 2015. Specifically, the Respondent did not immediately submit notification for the two sensitive geologic features encountered during construction.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			5.0%
Matrix Notes: 100% of the rule requirements were not met.				

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 Number of violation days 59

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

Two single events (one event for each feature) are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14 Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

## Economic Benefit Worksheet

**Respondent** Our Lady of Atonement Catholic Church  
**Case ID No.** 50665  
**Reg. Ent. Reference No.** RN102747482  
**Media** Edwards Aquifer  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	13-Apr-2015	12-May-2016	1.08	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	13-Apr-2015	6-May-2015	0.06	\$0	n/a	\$0

#### Notes for DELAYED costs

Estimated cost to immediately notify the San Antonio Regional Office when a sensitive feature is discovered and to update the Facility's operational guidance and conduct employee training to ensure that the San Antonio Regional Office is notified immediately when a sensitive feature is discovered during construction and regulated activity is suspended until approval is obtained to proceed. Date required is the last date of the investigation and the date the notification was due. Final dates are the estimated date of compliance and the date the San Antonio Regional Office was notified.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

**TOTAL**

\$14

Screening Date 11-Jun-2015

Docket No. 2015-0898-EAQ-E

PCW

Respondent Our Lady of Atonement Catholic Church

Policy Revision 4 (April 2014)

Case ID No. 50665

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102747482

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP No. 13-95061902, Temporary Stormwater Section No. 22

Violation Description

Failed to implement temporary sediment control measures to prevent pollutants from entering a sensitive feature discovered during construction, as documented during an investigation conducted on April 8, 2015 through April 13, 2015. Specifically, the two sensitive geologic features discovered at the Site were not protected with temporary sediment control measures.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

59 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended (one event for each feature) from the last date of the investigation, April 13, 2015, to the June 11, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** Our Lady of Atonement Catholic Church

**Case ID No.** 50665

**Reg. Ent. Reference No.** RN102747482

**Media** Edwards Aquifer

**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	13-Apr-2015	12-May-2016	1.08	\$54	n/a	\$54

Notes for DELAYED costs

Estimated cost to install temporary sediment control measures (\$500 x 2 sensitive features) to prevent pollutants from entering the two sensitive geologic features. Date required is the last date of the investigation. Final date is the estimated date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$54

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601400641, RN102747482, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN601400641, Our Lady of Atonement Catholic Church      **Classification:** UNCLASSIFIED      **Rating:** -----

**Regulated Entity:** RN102747482, Our Lady Of Atonement Catholic Church      **Classification:** UNCLASSIFIED      **Rating:** -----

**Complexity Points:** 0      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 15415 RED ROBIN ROAD IN SAN ANTONIO BEXAR COUNTY, TEXAS

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

EDWARDS AQUIFER PERMIT 13-95061902A	EDWARDS AQUIFER PERMIT 13-95061902
EDWARDS AQUIFER PERMIT 13-95061902C	EDWARDS AQUIFER PERMIT 13-95061902B
EDWARDS AQUIFER PERMIT 13-95061902D	EDWARDS AQUIFER PERMIT 13-95061902E
EDWARDS AQUIFER PERMIT 13-95061902G	EDWARDS AQUIFER PERMIT 13-95061901
EDWARDS AQUIFER PERMIT 13-15021203	

**Compliance History Period:** September 01, 2009 to August 31, 2014      **Rating Year:** 2014      **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** July 22, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 22, 2010 to July 22, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
OUR LADY OF ATONEMENT  
CATHOLIC CHURCH  
RN102747482**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2015-0898-EAQ-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Our Lady of Atonement Catholic Church ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a commercial construction site located at 15415 Red Robin Road in San Antonio, Bexar County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 3, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Thousand Eight Hundred Thirteen Dollars (\$7,813) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Two Hundred Fifty-One Dollars (\$6,251) of the administrative penalty and One Thousand Five Hundred Sixty-Two Dollars (\$1,562) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
  - a. On May 4, 2015, obtained approval for modification of a Water Pollution Abatement Plan ("WPAP") under Edward Aquifer Pollution Plan ("EAPP") No. 13-15021203;
  - b. On May 6, 2015, notified the TCEQ San Antonio Regional Office of a sensitive feature and submitted a geologic assessment report prepared by a geologist which outlined measures to protect the sensitive feature; and
  - c. On May 12, 2015, obtained approval of a Solution Feature/Sensitive Feature Closure Plan.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to obtain approval of a modification to an approved WPAP prior to commencing the construction of any regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1) and (j)(3), and EAPP No. 13-95061902, Standard Conditions No. 4, as documented during an investigation conducted April 8, 2015 through April 13, 2015. Specifically, clearing, milling, and grading for the construction of a building, sidewalks, driveways and associated utilities, had disturbed approximately 2.988 acres without approval.
2. Failed to immediately suspend all regulated activities near any sensitive feature discovered during construction until receiving Executive Director approval, in violation of 30 TEX. ADMIN. CODE §§ 213.5(f)(2) and 213.4(k), and EAPP No. 13-95061902, Standard Conditions No. 10, as documented during an investigation conducted on April 8, 2015 through April 13, 2015. Specifically, construction activity continued near two sensitive geologic features discovered in the wall cuts located to the west (feature CD-1) and north (feature CD-2) without approval.
3. Failed to immediately notify the TCEQ San Antonio Regional Office of any sensitive feature discovered during construction, in violation of 30 TEX. ADMIN. CODE §§ 213.5(f)(2)(A) and 213.4(k), and EAPP No. 13-95061902, Standard Conditions No. 10, as documented during an investigation conducted April 8, 2015 through April 13, 2015. Specifically, the Respondent did not immediately submit notification for the two sensitive geologic features discovered during construction.
4. Failed to implement temporary sediment control measures to prevent pollutants from entering a sensitive feature discovered during construction, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP No. 13-95061902, Temporary Stormwater Section No. 22, as documented during an investigation conducted April 8, 2015 through April 13, 2015. Specifically, the two sensitive geologic features discovered at the Site were not protected with temporary sediment control measures.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Our Lady of Atonement Catholic Church, Docket No. 2015-0898-EAQ-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of the Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that the TCEQ San Antonio Regional Office is notified immediately of sensitive features discovered during construction and to ensure all regulated activities are suspended when a sensitive feature is discovered during construction; and
    - ii. Install temporary sediment control measures to prevent pollutants from entering sensitive geologic features discovered during construction, until the two sensitive features are permanently sealed, in accordance with 30 TEX. ADMIN. CODE § 213.4.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2. a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

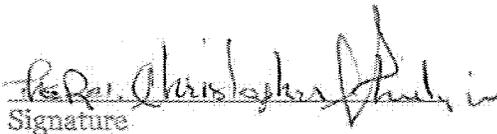
4/8/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

2/26/16  
Date

CHRISTOPHER G. PHILLIPS  
Name (Printed or typed)  
Authorized Representative of  
Our Lady of Atonement Catholic Church

PASTOR  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.